Form No.J(2)

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:
The Hon'ble Justice Ananya Bandyopadhyay

FMA 893 of 2023

Firoja Begum & Anr.
Versus
National Insurance Company Ltd. & Anr.

For the Appellants	:	Mr. Ashique Mondal
For the Respondent No.1/ Insurance co.	:	Rajesh Singh
Heard & Judgment on	:	30th April, 2025.

Ananya Bandyopadhyay, J:

1. The Learned Advocates representing the respective parties are present.
2. The instant appeal had been filed against the judgment and award dated 28th April, 2022 passed by the learned Judge, Motor Accident Claims Tribunal, Additional District Judge, 10th Court, Alipore, South 24 Parganas in M.A.C. Case No. 83 of 2014.
3. An application under Section 166 of the Motor Vehicles Act had been filed by the claimants on account of the death of the victim in an accident which occurred on 17th April, 2014 at about 17.00

hours with involvement of the offending vehicle being a private bus bearing registration no. WB/25B/0273 which approached at an exceeding speed rashly and negligently hit the victim who was driving a motor cycle at Majherhat Bridge under the jurisdiction of Alipore Police Station. The victim was transmitted to SSKM Hospital where he was declared "brought dead".

4. Learned Advocate representing the appellants/claimants submitted the learned Tribunal had erroneously considered the annual income of the victim to be Rs. 1,83,250**/-** after deduction of Rs. 45,144/- under Chapter VI-A as delineated in the document marked as Ext. 13 being the income tax return submitted for assessment year 2013-14.

5. The learned Advocate representing the respondent No.1/Insurance Company acceded to the same.

6. Since the occurrence of the accident, the driving license, the Insurance policy, the route permit etc. and other ancillary issues have not been disputed by the learned advocate representing the respondent No.1/insurance company, this Court restricts itself only to the extent to consider the document marked as Ext. 13 pertaining to the annual income of the victim as assessed through income tax return filed for the year 2013-14 which mentioned the annual income to be Rs. 2,83,94/- out of which the deductions to the extent of 45,144/- was erroneous since the said amount was

paid towards mediclaim policies and LIC etc. out of the personal income of the victim which was part of his consolidated income not to have been deducted. The other aspects of the impugned judgment and award passed by the learned Tribunal including the right granted to the respondent No.1/insurance company to pay the award and recover the same from the owner of the offending vehicle have not been interfered with.

7. The impugned award of Rs. 20,82,250/- is modified as follows:

Annual Income	Rs. 2,28,394/-
1/3rd Deduction	Rs. 76,131/-
Personal Expenses	Rs. 1,52,263/-
Future Prospect to be added(25%)	Rs. 38,066/-
	Rs. 1,90,329/-
Multiplier to be "13"	X 13
	Rs. 24,74,277/-
General Damages	Rs. 77,000/-
	Rs. 25,51,277/-
Less Award	Rs. 20,82,250/-
Entitlement	Rs. 4,69,027/-

8. The Learned Advocate for the appellants/claimants submitted that the appellants/claimants have withdrawn a sum of Rs. 20,82,250/-. The appellants/claimants are entitled to a sum of Rs. 4,69,027/- along with 6% interest per annum to be paid from the date of filing of the claim application i.e. 08.08.2014 till the date of its actual realization.

9. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 4,69,027 along with interest

as aforesaid before the office of the learned Registrar General, High Court Calcutta within six weeks from the date of passing of this order .

10. The office of the Registrar General, High Court, Calcutta shall encash the said cheque and thereafter disburse the same to the present appellants/claimants as mentioned in the award passed by the learned Judge, Motor Accident Claims Tribunal, Additional District Judge, 10th Court, Alipore, South 24 Parganas in M.A.C. Case No. 83 of 2014 on proof of proper identification of the appellants/claimants subject to payment of *ad valorem* Court's fees within four weeks.

11. The instant appeal is disposed of accordingly.

12. The pending applications if any stands disposed of.

13. The TCR be sent down to the concerned Tribunal forthwith.

14. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)

c.m. Ar. Ct.